

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Philipp Stoessel et al.

Application No.: 10/578,039

Confirmation No.: 5478

Filed: May 1, 2006

Art Unit: 1625

For: METAL COMPLEXES WITH BIPODAL
LIGANDS

Examiner: C. Aulakh

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

In response to the restriction requirement set forth in the Office Action mailed March 16, 2009, applicant hereby provisionally elects Group VI, claims 1-28 for continued examination, with traverse.

The Examiner requests that we elect one of the following inventions:

Group I, claim(s) In part 1-28, drawn to compounds of structure 1 represented by compounds of **example 1** (see page 29 of specification), a process for preparing these compounds and methods of using these compounds.

Group II, claim(s) In part 1-28, drawn to compounds of structure 1 represented by compounds of **example 65** (see page 24 of specification), a process for preparing these compounds and methods of using these compounds.

Group III, claim(s) In part 1-28, drawn to compounds of structure 1 represented by compounds of **example 66** (see page 24 of specification), a process for preparing these compounds and methods of using these compounds.

Group IV, claim(s) In part 1-28, drawn to compounds of structure 1 represented by compounds of **example 40** (see page 22 of specification), a process for preparing these compounds and methods of using these compounds.

Group V, claim(s) In part 1-28, drawn to compound of structure 1 represented by compounds of **example 54** (see page 23 of specification), a process for preparing these compounds and methods of using these compounds.

Group VI, claim(s) In part 1-28, drawn to compounds of structure 1 represented by compounds **other than defined above for groups I through V**, a process for preparing these compounds and methods of using these compounds.

The applicant respectfully disagrees with the Examiner that the inventions listed in Groups I to VI do not relate to a single inventive concept. Furthermore, the applicant does not agree that a further restriction should be necessary for group VI, based on the values of metal, L1, L2 and V. The applicant noted that Groups I through V embrace only one single compound each. Furthermore, if the values for metal, L1, L2 and V are defined in Group VI, this group also relates only to one single compound.

All these compounds are embraced by Structure 1 according to claim 1. These structures are characterized by being a metal complex having a ligand wherein the ligand has two partial ligands, each of which is built from two cyclic units, and wherein the partial ligands are linked by a bridging unit V. This structure can be regarded as the common core shared by all of the alternatives. It is this design principle of the complex which results in the improved technical properties of the complexes and which therefore represents the general inventive concept of this claim.

As the Examiner requests a further election of the values of variables metal, L1, L2 and V in Group VI, we would kindly ask you to specify these variables as follows: Metal is platinum (as disclosed in the published application in paragraph [0047]). L1 and L2 are each defined as Cy1-Cy2 (structure 3). For Cy1 and Cy2 the applicant elects as substituted or unsubstituted aromatic homo- or heterocyclic ring wherein one bonds to the metal via a metal-carbon bond and the other via a donor atom other than carbon (see paragraph [0025]). Furthermore, please define

the bridging unit V as a group containing 1 to 6 substituted or unsubstituted bridging atoms selected from the third, fourth, fifth and/or sixth main group or a 3- to 6-membered homo- or heterocyclic ring. This election now refers to Pt complexes having a tetradentate ligand with four coordinating aromatic or hetero-aromatic units, wherein two of these units coordinate via carbon atoms and the other two units coordinate via heteroatoms.

It is the general inventive concept to use the tetradentate ligands instead of two bidentate ligands.

Applicants respectfully traverse the Restriction requirement because the U.S. Patent and Trademark Office has not carried forward its burden of proof to establish distinctness.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00003-US from which the undersigned is authorized to draw.

Dated: April 16, 2009

Respectfully submitted,

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